

SUBCOMMITTEE NO. 4

Agenda

Joseph Dunn, Chair
Dick Ackerman
Denise Moreno Ducheny



Wednesday, May 5, 2004

**Upon adjournment of the
Committee on Banking, Commerce, and International Trade**

Room 3191

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0845 Department of Insurance

The Office of the Insurance Commissioner enforces the insurance laws found in the California Insurance Code through regulation of the insurance industry. The Department fulfills that regulatory responsibility by regulating the over \$105 billion in direct premiums written in the state. The Department conducts examinations of insurance companies and producers to ensure that operations are consistent with the requirements of the Insurance Code and that insurance companies are financially viable and able to meet their obligations to policyholders and claimants. The Department also investigates complaints and responds to consumer inquiries, administers the conservation and liquidation of insolvent and delinquent insurance companies, reviews and approves insurance rates, and enforces laws to combat insurance fraud.

DEPARTMENT OF INSURANCE BUDGET

(Dollars in thousands)

	2002-03	2003-04	CHANGE FROM 2002-03		2004-05	CHANGE FROM 2003-04	
Total Budget	\$159,634	\$173,419	\$13,785	7.95%	\$170,365	-\$3,054	-1.79%
Personnel Years*	1216.3	1232	16	1.27%	1230.1	-1.9	-0.15%

*Positions adjusted for salary savings and other adjustments

Issue #1—Finance Letter: Uninsured Employer Fraud – Limited Term Position Extension Pursuant to Chapter 6, Statutes of 2002

The Department of Insurance requests a two-year extension of 1.9 personnel years and \$399,000 from the Insurance Fund. This funding supports the positions and a related requirement that the Department of Insurance provide reimbursement funding for producing and distributing workers' compensation fraud notices. The Department reports that an extended term of two-years will enable them to fill the positions and meet the requirements of Chapter 6, Statutes of 2002 (AB 749).

Chapter 6, Statutes of 2002, defined additional criminal acts that both the Department of Insurance's Fraud Division and grant-funded district attorney's are required to investigate and prosecute. Funding is derived from fraud assessments against employers that is deposited in the Insurance Fund.

Staff Comment. Staff concurs with the need for the positions in order to implement the chaptered legislation.

Staff Recommendation. Adopt the Finance Letter.

VOTE:

Issue #2—Finance Letter: Disability and Health Fraud Spending Authority Increase

The Department of Insurance requests 12 positions and \$2.6 million in ongoing funding from the Insurance Fund. These resources will be used to expand the investigations of disability and health fraud statewide. The \$2.6 million is comprised of support for the department (including the 12 positions) of \$1.3 million and \$1.3 million in local assistance to support district attorneys who are participating in the program. Suspected fraudulent claims workload growth and the Department's lack of capacity to respond to that growth precipitated this request.

Staff Comment. Staff concurs with the request for the positions and funding in order to respond to the growth in suspected fraudulent claims.

Staff Recommendation. Adopt the Finance Letter.

VOTE:

Issue #3—Finance Letter: Local Assistance Workers' Compensation Spending Authority Increase

The Department of Insurance requests an ongoing increase of \$987,000 in local assistance expenditure authority to provide additional grant funding to local district attorneys participating in the Fraud Workers' Compensation Program. As a consequence of recent benefit agreements between the Public Employee Retirement System and various counties, several local agencies have identified a funding deficiency in being able to afford the higher benefit costs. This Finance Letter seeks to align the compensation for county investigators of workers' compensation fraud with all other counties in the state.

Staff Comment. Staff concurs with the request for increased local assistance funding.

Staff Recommendation. Adopt the Finance Letter.

VOTE:

Issue #4—Finance Letter: Local Assistance Spending Authority Increase for the Fraud Automobile and Urban Grant Programs

The Department of Insurance requests \$2,920,000 in one-time expenditure authority to distribute excess local assistance funds to district attorneys for the Fraud Automobile and Urban Grant Programs. These programs enable district attorney offices to prosecute automobile insurance fraud cases. The funding for this proposal is provided by excess balances in the Insurance Fund caused by the level of fees assessed per insured vehicle in the state.

Staff Comment. The excess funding cited by the Department of Insurance is created by a \$1.50 fee paid when a person insures their vehicle. The fee is comprised of \$1.00 for the Fraud Automobile Program and \$.50 for the Urban Grant Program. The \$1.50 fee is set to expire on January 1, 2007.

Based on current balances, it would be possible to reduce the fee to \$1.25 and still have sufficient balances to fund the programs up to the expiration date. If a fee reduction were adopted, the reduction would be effective January 1, 2005, the effective date for assessment changes.

Staff Recommendations.

1. **Adopt the Finance Letter.**
2. **The Subcommittee requests the Department of Insurance report on the merits of a \$.25 fee decrease and the mechanism to implement such a fee reduction.**

VOTE:

Issue #5—Finance Letter: Health Insurance Counseling Fees Increased Authority Proposal.

The Department of Insurance requests additional expenditure authority of \$323,000 ongoing to transfer from the Insurance Fund an increased annual assessment on health care plans (from \$1.00 to \$1.20 per Medicare beneficiary) to the Department of Aging for the Health Insurance Counseling and Advocacy Program (HICAP). This transfer is made pursuant to Chapter 545, Statutes of 2003, which increased the fee amount. For every dollar collected by the Department of Aging, the Insurance Fund transfers two dollars to the State HICAP Fund.

Staff Comment. Staff concurs with the request for increased expenditure authority.

Staff Recommendation. **Adopt the Finance Letter.**

VOTE:

Issue #6—Finance Letter: Investigation Division Positions

The Department of Insurance requests 5 positions and \$570,000 ongoing in expenditure authority from the Insurance Fund to address a backlog in cases, caseload maintenance, and program enhancements related to violations by automobile insurance agents and insurance companies. The Department has identified a workload backlog that these positions will help them to eliminate within three years.

Staff Comment. Staff has identified no concerns with this request.

Staff Recommendation. **Adopt the Finance Letter.**

VOTE:

0890 Secretary of State

The Secretary of State's (SOS) office has statutory responsibility for managing the filing of financial statements and corporate-related documents for the public record. As the chief election officer, the SOS administers and enforces election law and campaign disclosure requirements. In addition, the SOS office appoints notaries public, registers auctioneers, and manages the State's archives.

SECRETARY OF STATE BUDGET

(Dollars in thousands)

	2002-03	2003-04	CHANGE FROM 2002-03		2004-05	CHANGE FROM 2003-04	
Total Budget	\$69,279	\$132,146*	\$62,867	90.7%	\$68,792	-\$63,354	-48.0%
Positions	433.6	478.5	44.9	10.4%	478.5	0	0%

* Includes \$57,300 in HAVA funds.

ISSUE #1—Finance Letter: The Help America Vote Act

The federal Help America Vote Act of 2002 (HAVA) is expected to provide approximately \$250 million for changes to election equipment and processes in California. The Secretary of State is responsible for administering the federal HAVA requirements. The SOS has already received approximately \$81.2 million in current year HAVA funding through the Control Section 28 budget revision process.

SOS Proposal. The Secretary of State has submitted a Finance Letter requesting \$264 million in expenditure authority from the Federal Trust Fund to continue HAVA program implementation. The HAVA requirements identified by SOS to date are listed in the following table.

FEDERAL HAVA REQUIREMENTS – May 2004

PROGRAM	COST ESTIMATE
Voting Systems Standards (local assistance funding)	\$42.6 million - \$84 million
Provisional Voting - for individuals' whose name do not appear on the official list	\$1 million - \$3 million
Voter Information Posting - specified information on election day	\$100,000 - \$500,000
Statewide Database – A multi-million dollar project to implement a statewide database	\$8 million - \$40 million
Verification of Voter Registration Information	\$100,000 - \$500,000
Requirements of Certain Voters Who Register By Mail	\$100,000 - \$500,000
Mail-In Registration Form Requirements	\$0
Voter Education – a clearinghouse for voter education processes	\$15 million - \$45 million

Elections Official Education – for local election officials	\$15 million - \$45 million
Poll Worker Education	\$15 million - \$45 million
Complaint Procedure	\$100,000 - \$500,000
Voting Rights of Military and Overseas Procedures	\$100,000 - \$400,000
TOTAL	\$97,100,000 — \$264,400,000

Subsequent to the April 1 Finance Letter submittal, the SOS provided clarifying detail that they intend to include in a May Revision Finance Letter. This information is expected to contain more program activity information and proposed budget bill language to permit the transfer of federal funds between local assistance and support costs, in accordance with federal guidelines.

LAO Recommendation. Similar to when this issue was considered previously by the Subcommittee, the LAO has raised concerns that the SOS should provide a more detailed spending plan for the anticipated HAVA funds. The LAO suggests budget bill language be used to ensure that oversight. Elements of that budget bill language would include:

- A detailed spending plan requirement including: proposed expenditures by function and activity, information on hiring practices, a timeline on meeting federal requirements, and the estimated costs that may exceed appropriations.
- A provision that plan approval be subject to 30-day review by the JLBC and the committee that reviews elections issues.
- A provision that no funds be spent on a voter database without an approved Feasibility Study Report (FSR).

Staff Comments: Delays in forming the Election Assistance Commission (the HAVA oversight body) and in promulgating guidelines for use have hindered states' ability to plan for how the federal funds are to be spent. When federal guidelines are released (perhaps later this summer), they are expected to provide wide latitude to the states regarding how to spend HAVA funds. As such, the Legislature should consider the extent to which it wishes to involve itself in the expenditure of those funds.

Notwithstanding implementation delays that may be caused by requiring greater Legislative oversight, the gravity of the policy decisions involved with HAVA projects suggests that budgeting these funds should be done at a level commensurate with the normal budget development process. The election equipment used to improve voter participation, priorities of program spending, and the state/local spending split are a few election matters the Legislature may wish to consider.

There is no certainty that schedules will slip appreciably and federal funds lost if this oversight is required. Nor are there indications that federal guidelines won't be extended to accommodate the schedule that the federal government has already allowed to slip. However, the risk of hastening along some of the proposed programs, such as FSR for a database system expected to cost up to \$40 million, suggests that prudent legislative oversight is essential.

The two options the Legislature may wish to consider for HAVA funding in the budget year are:

1. A review process as described by the LAO recommendation above.
2. The introduction of a bill at a time in the budget year after federal guidelines are known. This process will allow for the most complete consideration by the policy committees and the Legislature as a whole

Subsequent HAVA spending proposals should come through the BCP or April Finance Letter process.

Staff Recommendation: Hold this issue open to provide the SOS an opportunity to work with Legislative staff, the LAO, and DOF to refine the reporting requirements and obtain new information on federal HAVA requirements (if available).

VOTE:

ISSUE #2—Finance Letter: Restoration of the International Business Relations Program

The Administration proposes to increase the Secretary of State's Business Fees Fund by \$284,000 to restore 3 positions in the International Business Relations Program. This program was originally proposed for elimination in the Governor's Budget. Restoring these positions results in a General Fund reduction of the same amount, as these funds would otherwise be transferred to the General Fund.

Staff Comment. In abolishing the Technology, Trade, and Commerce Agency and the Legislature made a decision to no longer provide state resources for international business activities. Specifically, by eliminating the Global Economic Development Program, the Legislature committed to no longer spending state resources to promote California exports and encourage investment in the state.

The SOS International Business Relations Program was established with some objectives that no longer appear essential. These include facilitating the implementation of the North American Free Trade Agreement (NAFTA) and developing a web site for international business interests (now established).

Staff Recommendation. Reject the Finance Letter.

ISSUE #3—MANDATE: Voter Registration Procedures

This mandate provides for uniform voter registration procedures and voter outreach for each county in the state.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Voter Registration Procedures (Chapter 704, Statutes of 1975)	Suspend	Defer	Defer

LAO Recommendation: Defer

Staff Recommendation: Approve as budgeted.

VOTE:

ISSUE #4—MANDATE: Voter Registration Roll Purge

This mandate provides for uniform voter registration procedures and voter outreach for each county in the State.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Voter Registration Roll Purge (Chapter 1401, Stats. 1976)	Suspend	Suspend	REPEAL

LAO Recommendation: Repeal. This mandate has been suspended for over a decade.

Staff Recommendation: Approve as budgeted. (Zero dollars in the budget - actual repeal will be subject to mandate policy bill.)

VOTE:

ISSUE #5—MANDATE: Absentee Ballots

This mandate provides that absentee ballots must be available to all voters who request an absentee ballot.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Absentee Ballots (Chapter 77, Stats. 1978)	Defer	Defer	Defer

LAO Recommendation: Defer

Staff Recommendation: Approve as budgeted.

VOTE:

ISSUE #6—MANDATE: Handicapped Voter Access Information

This mandate requires that a county elections officials must ensure that polling places are accessible to the physically handicapped and specifies in the polling place notice that is sent to each voter whether the polling place is handicapped accessible.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Handicapped Voter Access Information (Chapter 494,	Suspend	Suspend	REPEAL

Stats. 1979)			
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LAO Recommendation: Repeal. This mandate has been suspended for over a decade.

Staff Recommendation: **Approve as budgeted. (Zero dollars in the budget - actual repeal will be subject to mandate policy bill.)**

VOTE:

ISSUE #7—MANDATE: Local Elections Consolidation

This mandate requires a county board of supervisors, prior to adopting a resolution to approve or deny request to consolidate specified local elections, to obtain from the county elections official a report on the cost-effectiveness of the proposed consolidation.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Local Elections Consolidation (Chapter 1013, Stats. 1981)	Suspend	Suspend	REPEAL

LAO Recommendation: Repeal. This mandate has been suspended for over a decade.

Staff Recommendation: **Approve as budgeted. (Zero dollars in the budget - actual repeal will be subject to mandate policy bill.)**

VOTE:

ISSUE #8—MANDATE: Permanent Absent Voters

This mandate provides that counties must grant permanent absent voter status to anyone who requests it.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Permanent Absentee Voters (Chapter 1422, Stats. 1982)	Defer	Defer	Defer

LAO Recommendation: Defer

Staff Recommendation: **Approve as budgeted.**

VOTE:

ISSUE #9—MANDATE: Democratic Party Presidential Delegates

This mandate requires procedures for selecting the California delegation to the Democratic National Convention.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Democratic Party Presidential Delegates (Chapter 1603, Stats. 1982)	Suspend	Suspend	REPEAL

LAO Recommendation: Repeal. This mandate has been suspended for over a decade.

Staff Recommendation: Approve as budgeted. (Zero dollars in the budget - actual repeal will be subject to mandate policy bill.)

VOTE:

ISSUE #10—MANDATE: Election Materials

This mandate requires local election officials to furnish and post signs identifying polling places and other election activities.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Election Materials (Chapter 1042, Stats. 1985)	Suspend	Suspend	REPEAL

LAO Recommendation: Repeal. This mandate has been suspended for over a decade.

Staff Recommendation: Repeal. (Actual repeal will be subject to a mandate policy bill.)

VOTE:

ISSUE #11—MANDATE: Brendon Maguire Act

This mandate provides that a special election be held if a statewide office candidate or incumbent dies within 68 days of the election.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Brendon Maguire Act (Chapter 391, Stats. 1988)	Suspend	Defer	Defer

LAO Recommendation: Defer

Staff Recommendation: Approve as budgeted.

VOTE:

1880 State Personnel Board

The State Personnel Board (SPB) has the authority to adopt civil service rules and regulations. These duties include, but are not limited to, adopting classifications within the State Civil Service System, conducting hearings and appeals on matters of discipline for civil service employees, and developing and administering the merit-based civil service hiring and promotional process.

STATE PERSONNEL BOARD BUDGET (Dollars in thousands)

	2002-03	2003-04	CHANGE FROM 2002-03		2004-05	CHANGE FROM 2003-04	
Total Budget	\$18,801	\$17,803	-\$998	-5.6%	\$17,056	-\$747	-4.4%
Personnel Years*	153.1	126.9	-26	-20.6%	120	-6.9	-5.8%

(Dollars in 000s)

*Positions adjusted for salary savings and other adjustments

ISSUE #1—Budget Change Proposal: Fiscal Year 2004-05 General Fund Reduction.

The Administration proposes a \$600,000 General Fund reduction to staffing and operating expenses related to merit appeals, examination services, bilingual services, and information technology services.

Staff Comments:

The SPB has taken large reductions in their main programs relative to 2001-02. The five main program reductions have been as follows:

SPB POSITION REDUCTIONS BETWEEN 2001-02 AND 2004-05 (proposed)

Program	2001-02 Staffing	2004-05 Staffing	Reduction
Executive Services	14	11	21%
Appeals	45.9	36.2	21%
Policy	36.6	16.5	55%
Merit Employment and Technical Resources	53.3	34.1	36%
Administrative Services	39.9	21.9	45%

Within these programs, the SPB has taken even more significant reductions. For example, the policy division within the policy program has been reduced from 21 positions in 2001-02 to 4.5 positions in 2004-05, a 79 percent decrease.

As the table above indicates, the SPB's main programs have been decimated in recent years, to the point where their effectiveness and purpose are in question. A reduction of

this size delivered over the course of four years suggests that a broader perspective on program objectives should be adopted.

Staff understands that the California Performance Review (CPR) is including the SPB in their deliberations on how to make government more efficient. It is possible that the CPR process will provide direction to the whether to augment, consolidate, or eliminate SPB in order to meet the mission of that organization.

Staff Recommendation: **Hold this issue open**, pending information from the CPR (if available) as to the most efficient way to achieve the mission entrusted to the SPB and the updated General Fund shortfall information to be presented in the May Revise.

VOTE:

ISSUE #2—Finance Letter: Funding for Limited Examination Appointment Program (LEAP)

The Administration requests a reduction of 2.1 personnel years and \$157,000 of reimbursement authority to reflect the loss of federal funding to support the LEAP. Through an interagency agreement, the Department of Rehabilitation had provided the federal funding to the SPB for this special employment program for persons with disabilities. Due to changes in federal spending criteria, beginning in 2004-05, LEAP will no longer be eligible for federal rehabilitation funds.

Staff Comment. Staff concurs that funding is no longer available for this program. No issues have been raised with this Finance Letter.

Staff Recommendation. Adopt the Finance Letter.

VOTE:

ISSUE #3—Finance Letter: Restoration of Position Lost Due to Government Code Section 12439

The Administration requests the reestablishment of one staff counsel position that was eliminated erroneously as a vacant position. The position had been filled on June 30, 2003, but the paperwork had not been processed and the position appeared vacant on that date. The “vacant six months rule” (Government Code Section 12439) eliminated resulted in the position being eliminated. If this position is not established the SPB will have difficulty meeting its legal obligations in a timely manner.

Staff Comment. Staff concurs that this position should be reestablished. No issues have been raised with this Finance Letter.

Staff Recommendation. Adopt the Finance Letter.

VOTE:

ISSUE #4—MANDATE: Police Officer Procedural Bill of Rights

This mandate provides for a higher level of service during the investigation of an adverse action against a peace officer.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Peace Officer Procedural Bill of Rights (Chapter 675, Statutes of 1990)	Suspend	Defer	Defer

LAO Recommendation: Suspend. This matter should be referred to the Joint Legislative Audit Committee (JLAC) for review and recommendation for revisions to the mandate's parameters and guidelines. Once the JLAC has completed its audit, the LAO recommends the Legislature hold an oversight hearing to consider the JLAC's findings and recommendations.

Staff Recommendations:

1. **Suspend**
2. **Request the JLAC review this mandate for possible revisions, in accordance with the LAO recommendation.**

VOTE:

1760 Department of General Services

The Department of General Services (DGS) is responsible for providing a wide array of support services to State departments and performing management and oversight activities related to these services. DGS provides these through three programs, (1) building regulation services, (2) real estate services, and (3) statewide support services.

Expenses for these services are primarily reimbursed through fees assessed to State departments.

DEPARTMENT OF GENERAL SERVICES BUDGET (Dollars in thousands)

	2002-03	2003-04	CHANGE FROM 2002-03		2004-05	CHANGE FROM 2003-04	
Total Budget	\$805,961	\$854,863	\$48,902	6.1%	\$875,908	\$21,045	2.5%
Positions	3831.5	4149.7	318.2	8.3%	4130.8	18.9	-1.0%

*Positions adjusted for salary savings and other adjustments

ISSUE #1—Finance Letter: Public Utilities Commission Deferred Maintenance.

The Administration requests a \$435,000 one-time Service Revolving Fund augmentation to allow the Department of General Services to recover costs for deferred maintenance on the Edmund G. Brown building in San Francisco. Funds have been scheduled within Public Utilities Commission budget for 2004-05. This proposal will pay for maintenance, repair, and safety projects performed by DGS' Building and Property Management Branch.

Staff Comment. This one-time funding is consistent with a Memorandum of Understanding established between DGS and PUC to fund maintenance, repairs, and safety projects at the Edmund G. Brown building.

Staff Recommendation. Adopt the Finance Letter.

VOTE:

ISSUE #2—Finance Letter: Operations and Maintenance for CalTrans District 7 (Los Angeles) Office Building

The Administration requests \$4,770,000 ongoing from the Service Revolving Fund and 28.3 personnel years to allow DGS to operate and maintain the CalTrans District 7 Office Building in Los Angeles. Resources to reimburse DGS are included in a Finance Letter for CalTrans. That Finance Letter was accepted. This Finance Letter reflects that the District 7 Office Building will be occupied in August 2004 and that

the maintenance and operation of the facility will be the responsibility of DGS' Building and Property Management Branch.

Staff Comment. Staff has identified no concerns with this issue.

Staff Recommendation. Adopt the Finance Letter.

VOTE:

ISSUE #3—Finance Letter: Operations and Maintenance for Franchise Tax Board Phase III Project

The Administration requests \$7,365,000 ongoing from the Service Revolving Fund and 71.4 personnel years to allow the DGS to operate and maintain the third phase of the Franchise Tax Board Headquarters project. This project includes a warehouse, central plant, parking, and 934,000 square feet of office space that were originally authorized by legislation chaptered in 1996.

Staff Comment. Staff has identified no concerns with this issue.

Staff Recommendation. Adopt the Finance Letter.

VOTE:

ISSUE #4—Finance Letter: Budget Bill Language for DGS' Rate Setting Process.

The Administration proposes the following language be added to Item 1760-001-0666 (Service Revolving Fund) in order to provide improved oversight in the budget year for the Department of Finance and LAO with regards to DGS' rate setting process.

1760-001-0666, as follows:

Provisions:

XX. On or before July 1, 2004, the Department of General Services shall submit to the Department of Finance and the Legislative Analyst's Office, a report detailing the cost factors reflected in the 2004-05 rates. This report shall include:

- 1) A statement of the department's expenditures and revenues, by function, and an assessment of whether the rates charged for a given function recover the cost of providing the service;*
- 2) Information detailing the incremental changes to rates between fiscal years, including the reason for, and aggregate amount of, the change*

The Department of Finance shall use this report to review the current methodologies used to set rates and shall provide a report of its findings as part of the 2005-06 Governor's Budget.

XX. Beginning in 2005-06 and each fiscal year thereafter, by August 1, the Department of General Services shall submit to the Department of Finance a proposal that reconciles the current year rates and details any adjustments proposed for budget year rates to be included in the Governor's Budget.

LAO Recommendation. The LAO recommends the second provision on the annual reporting requirement be submitted as trailer bill as it involves an ongoing activity.

Staff Comment. Staff concurs that the provisions related to the annual reconciliation of rates be processed as trailer bill.

Staff Recommendation. Adopt the first provision of the budget bill language dealing with the report on 2004-05 rates only.

VOTE:

ISSUE #5—Finance Letter: Reappropriation of Funding for Three Local Seismic Projects

The Administration proposes to reappropriate up to \$1,891,259 in funding authorized by Proposition 122, the Earthquake Safety and Public Building Bond Fund of 1990. These projects were reappropriated in 2003. The budget bill language to effect this reappropriation is as follows:

1760-492—Reappropriation, Department of General Services. The balance, as of June 30, 2004, of the funds appropriated pursuant to Item 1760-101-0768, Budget Act of 1994 (Ch. 139, Stats. 1994), as reappropriated by Item 1760-492, Budget Act of 2003 (Ch. 157, Stats. 2003), are reappropriated and shall be available for expenditure through June 30, 2005.

Schedule:

<i>(1) 3116-Richmond, Contra Costa –</i>	
<i>City Hall.....</i>	<i>1,149,975</i>
<i>(2) 3117-Richmond, Contra Costa –</i>	
<i>Hall of Justice</i>	<i>683,613</i>
<i>(3) 4042-Orinda, Contra Costa: Orinda Fire</i>	
<i>Station 44.....</i>	<i>57,671</i>

Staff Comment. Staff has identified no issues with this reappropriation.

Staff Recommendation. Adopt the budget bill language to make these reappropriations.

VOTE:

ISSUE #6—Finance Letter: Reversion of Funding for one Local Sismic Project

The Administration proposes to revert up to \$500,000 in funding authorized by Proposition 122, the Earthquake Safety and Public Building Bond Fund of 1990. A local seismic grant to retrofit an Oakland Police and Administration facility was reappropriated last year. The budget bill language to effect a reversion of the balance in the budget year is as follows:

1760-495—Reversion, Department of General Services. As of June 30, 2004, the unencumbered balances of the appropriation provided for in the following citation shall revert to the balance of the fund from which it was made:
0768—Earthquake Safety and Public Buildings Rehabilitation Fund of 1990
Item 1760-101-0768, Budget Act of 1994 (Ch. 139, Stats. 1994), as
reappropriated by Item 1760-192, Budget Act of 2003 (Ch. 157, Stats. 2003)
(1) 4029-Alameda, Oakland Police and Administration
Retrofit – Oakland 500,000

Staff Comment. Staff has identified no issues with this reversion.

Staff Recommendation. Adopt the budget bill language to make the reversion.

VOTE:

ISSUE #7—Trailer Bill: Permanent Authorization for Printing Services

The Administration proposes trailer bill language to make permanent a provision of Government Code that (1) allows state agencies to use printers other than the Office of State Publishing, (2) allows the Office of State Publishing to offer its printing services to non-state public agencies, and (3) declares that all state agencies must solicit a bid from the Office of State Publishing when the project is anticipated to cost more than \$5000. This current section of code is repealed as of January 1, 2004. The language would be an urgency statute in order to implement the changes as close as possible to the start of the budget year. The proposed language is as follows:

Government Code 14612.2 is amended to read:

“14612.2. (a) Notwithstanding Chapter 7 (commencing with Section 14850) of Part 5.5 of Division 3 of Title 2 of, or Section 14901 of, the Government Code, no agency is required to use the Office of State Publishing for its printing needs and the Office of State Publishing may offer printing services to both state and other public agencies, including cities, counties, special districts, community college districts, the California State University, the University of California, and agencies of the United States

government. When soliciting bids for printing services from the private sector, all state agencies shall also solicit a bid from the Office of State Publishing when the project is anticipated to cost more than five thousand dollars (\$5,000).

~~(b) This section shall remain operative only until the effective date of the Budget Act of 2003 or July 1, 2003, whichever is later, and as of January 1, 2004, is repealed, unless a later enacted statute that is enacted before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.~~

(b) This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary changes to implement the Budget Act of 2004 at the earliest possible time, it is necessary that this act take effect immediately."

Staff Comment. Staff has identified no concerns with this bill. These provisions related to the Office of State Publishing were first effective in the current year.

Staff Recommendation. Adopt the trailer bill language.

ISSUE #8: Statewide Procurement Training and Certification Program

The current year budget contains \$2 million ongoing expenditure authority for DGS to continue the implementation of a statewide procurement training and certification program. During budget hearings last year, DGS was unable to provide specifics about the program. For that reason, the Legislature passed supplemental report language to require a status report that was due on April 1, 2004. The supplemental report has not been received to date.

The status report was to include: (a) descriptions of training courses conducted over the past 12 months, (b) the number of state staff attending each training course by department, (c) description and status of the state's certification program, (d) the number of state staff receiving certification over the past 12 months by department, (e) descriptions of proposed training courses to be provided over the next 12 months and the estimated number of state staff to be trained, and (f) descriptions of training courses still under development. LAO understands that the report is currently under review within the administration.

LAO Recommendation. Until the Legislature has information about the training program which justifies its continuation, the LAO recommends that DGS' expenditure authority be reduced by \$2 million.

Staff Recommendation. Adopt the LAO recommendation and reduce Item 1760-001-0666 by \$2 million.

VOTE:

8320 Public Employee Relations Board

The Public Employee Relations Board (PERB) works to promote the improvement of personnel management and employer-employee relations by working to (1) prevent and remedy unlawful acts and conduct of employers and employee organizations, and (2) determine and implement, through secret ballot elections, the free, democratic choice by employees as to whether they wish to be represented by a union in dealing with public school employers (pre-kindergarten through community colleges), the State of California, the University of California, the California State University, Hastings College of Law, and public agencies subject to the Meyers-Millias-Brown Act.

PUBLIC EMPLOYEE RELATIONS BOARD BUDGET

(Dollars in thousands)

	2002-03	2003-04	CHANGE FROM 2002-03		2004-05	CHANGE FROM 2003-04	
Total Budget	\$4,291	\$4,568	\$277	6.1%	\$4,568	\$0	0.0%
Personnel Years*	36.1	41	4.9	12.0%	41	0	0.0%

*Positions adjusted for salary savings and other adjustments

ISSUE—Finance Letter: Support Funding for the Board of PERB

The Administration requests \$337,000 ongoing General Fund to provide the PERB with funding for salaries and related expenses for two Board Members and one administrative assistant to the Chair of PERB. The original funding for these positions was redirected after its budget was reduced through Control Section 3.90 and Control Section 31.60.

Staff Comment. The workload growth PERB is expected to encounter suggests that two new Board members will enable the organization to meet a growing caseload. PERB reports that without this augmentation the backlog of cases pending before the Board is expected to grow to 26 months. PERB expects the two additional Board members to allow them to process 50 more cases a year, enabling them to contain the backlog from growing further.

Notwithstanding the apparent need for two board members, it is unclear that the administrative assistant position cannot be absorbed by PERB. PERB has explained that they will be providing a 2005-06 BCP in the fall that will address the growing statewide workload. It is expected that staff needs will be clarified in that request.

Staff Recommendation. Approve funding for the two board member positions only.

9100 Tax Relief

Homeowners in California are afforded a variety of tax relief programs through a reduction in rates or nonrefundable tax credits. The state also provides the tax relief through the appropriation of funds for payments to individuals or reimbursement of local agencies. This includes relief to low-income senior citizens and disabled persons as well as to those in agricultural areas who agree to hold their land as open space under the Williamson Act of 1965.

TAX RELIEF BUDGET (Dollars in thousands)

	2002-03	2003-04	Change		2004-05	Change	
Senior Citizens' Property Tax Assistance	\$37,543	\$37,036	-\$507	-1.35%	\$37,036	\$0	0.00%
Senior Citizens' Property Tax Deferral	\$11,583	\$11,900	\$317	2.74%	\$11,900	\$0	0.00%
Senior Citizen Renters' Tax Assistance	\$146,999	\$146,355	-\$644	-0.44%	\$146,355	\$0	0.00%
Homeowners' Property Tax Relief	\$414,211	\$427,600	\$13,389	3.23%	\$433,200	\$5,600	1.29%
Subventions for Open Space	\$38,997	\$39,420	\$423	1.08%	\$39,750	\$330	0.83%
Substandard Housing	\$44	\$44	\$0	0.00%	\$0	-\$44	0.00%
Vehicle License Fee Offset	\$3,797,368	\$2,702,542	-\$1,094,826	-28.83%	\$4,062,075	\$1,359,533	33.47%
State-Mandated Local Programs	\$3	\$3	\$0	0.00%	\$3	\$0	0.00%
Total Budget	\$4,446,748	\$3,364,900	-\$1,081,848	-24.33%	\$4,730,319	\$1,365,419	28.87%

(Dollars in 000s)

Information Only: Vehicle License Fee (VLF) Funding to Locals.

As shown in the preceding "Tax Relief Budget" table, Vehicle License Fee (VLF) tax relief in the current year is 28 percent less than what was paid in 2002-03 and 33 percent less than that what is budgeted for 2004-05. The "triggering" of the VLF rate back to two percent of the value of a vehicle in June 2003 was suspended in November by the current Administration and the rate put back at .65 percent. The following month the Administration and the SCO opted to pay the remainder of General Fund VLF backfill to local governments through the current year—despite the fact the Legislature had not granted an appropriation for this action. (While the VLF portion of the Tax Relief item is normally funded through a continuous appropriation, the Legislature suspended that continuous appropriation for the current year by "in lieu" of the continuous appropriation with a \$1000 placeholder in the budget act.)

The Administration's action left in place a gap period of VLF funding and consequently the current year appropriation is \$1.3 billion less than in the budget year (\$4.1 billion). Chapter 231, Statutes of 2003 provides that this gap amount will be paid in 2006.

Staff Comment. Senate Subcommittee #4 staff are currently working with policy committees, the Administration, and other relevant stakeholders to address unresolved VLF funding issues. Updated information on General Fund revenues and commitments as they affect local governments will be presented in the May Revision.

Issue #1: Elimination of the Substandard Housing Program

The Governor's Budget proposes to eliminate certain allocations to cities and counties for the enforcement of housing codes and rehabilitation. Existing state tax laws deny taxpayers deductions associated with rental income from substandard housing. The revenue from the denied deductions is allocated to the local governments in which the substandard housing is located to pay for the enforcement activities. The budgeted expenditures for this program were \$44,000 in the past year and current year.

Staff Comment. A related issue, the mandate requiring locals to report to the state the amount withheld from a taxpayer who owns substandard housing, was addressed by the Subcommittee on April 28. (This mandate falls under the Franchise Tax Board budget.) The FTB reported that in the last three years the mandate has been suspended, they have not encountered difficulty in gaining compliance from locals. Consequently, the revenue from the denied deduction should still be accruing. The Subcommittee action on the mandate was to hold the mandate issue open pending a recommendation from the policy committee.

Staff Recommendations.

- 1. Request the Administration report on reasons why funding for this item has not changed over the last several years and suggest recommendations on how to encourage greater enforcement by local communities.**
- 2. Restore the substandard housing program (\$44,000) in the Tax Relief budget.**

VOTE:

ISSUE #2: Williamson Act Subventions For "Open Space" Funding

The Williamson Act allows cities and counties to enter into contracts with landowners to restrict certain property to open space and agricultural uses. In return for these restrictions, the property is assessed at a reduced rate. The state provides subventions to locals to pay part of the exemption based on the amount and type of land under contract.

LAO Issue. The LAO has identified three main concerns with the operation of the Williamson Act subventions program.

- First, while the state provides substantial subventions, it exercises no control over the specific parcels that are put under contract and cannot ensure that the funds are being used for appropriate lands.

- Second, Williamson Act subventions are for a short-term commitment only. If sufficient development pressures are brought to bear, a landowner may cancel or decline to reapply for the tax break. He or she will face a penalty for breaking the contract, but that penalty will presumably be less than the benefits of the sale.
- Third, the costs to the state are greater than the \$39.8 million appropriation. However, the state also bears added cost for educational funding since reduction in assessed property values also reduce the amount of property taxes that go to schools. Since the school share of property tax is approximately 52 percent, the real cost of Williamson Act program exceeds \$80 million. Furthermore, given that that open space subvention represents only a portion of the local property tax loss, it is possible that total costs to the state (subventions plus increased education funding) are substantially higher—although no statewide figures are available.

LAO Recommendations.

1. The Legislature should explore more efficient and permanent solutions to the issues related to open space and development pressures. One alternative would be for local communities to adopt more stringent regulatory and zoning policies or to purchase land that is most at risk of development.
2. The Legislature should provide for the gradual elimination of payments to local governments for the local revenue losses associated with Williamson Act contracts. Specifically, the program should be reduced by ten percent over ten years (reduce Item 9100-001-0001 by \$3.9 million), enabling the locals to phase in an alternative processes for open space preservation.

Staff Comment. The Williamson Act subventions have been operating for nearly four decades and are credited with preserving hundreds of thousands of acres for agricultural use where the acreage would otherwise have been developed for commercial and residential use. Over the past four decades this program has also provided a valuable tax subsidy to many farmers.

While the history of accomplishment of this program is significant, allegations that program funds are unnecessarily supplanting local funds or landowner payments have been voiced often.

To clarify the advantages of the Williamson Act subvention program, the Legislature may wish to consider commissioning econometric research on how the state and the subvention recipients benefit from this program. This research would attempt to better direct Williamson Act subventions towards protecting agricultural land from the intrusion of commercial and residential development.

Funding for such a study, preliminarily estimated to cost \$50,000, would be provided by the Soil Conservation Fund in the Department of Conservation's (DOC) budget. No reductions to the DOC budget are expected, as increased fee revenues for Williamson Act-related penalties will be sufficient to make this appropriation possible.

Staff Recommendation.

1. **Approve the Williamson Act subventions as budgeted.**

2. Request the LAO and Administration representatives report on the necessity and recommended focus of such a study.

VOTE:

ISSUE #3: Senior Citizen's Tax Relief Reduction.

LAO Option. As part of the LAO's "Additional Options" list for General Fund expenditure reductions, the LAO provides an option that the tax relief to senior citizens' renters and property-owners be set back to the 1999-00 baseline level, for a savings of \$75 million.

Staff Recommendation. Staff recommends the subcommittee not adopt the LAO option at this time and keep the issue open. The LAO should provide further fiscal detail and information on the economic and social impacts of this option.

ISSUE #4—MANDATE: Senior Citizens' Property Tax Deferral Program

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Senior Citizens' Property Tax Deferral Program (Ch. 1242, Stats. 1977)	Defer	Defer	Defer

LAO Recommendation: Defer

Staff Recommendation: Approve as budgeted.

VOTE:

ISSUE #5—MANDATE: Countywide Tax Rates

This mandate requires county auditors to allocate and account for property tax revenues derived from state-assessed properties. State-assessed property tax revenues are allocated on a countywide basis, unlike locally assessed revenues that are allocated on a situs basis.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Countywide Tax Rates (Ch. 921, Stats. 1987)	Defer	Defer	Defer

LAO Recommendation: Defer

Staff Recommendation: Approve as budgeted.

VOTE:

ISSUE #6—MANDATE: Allocation of Property Tax Revenue

This mandate requires counties to implement, plan, administer, report, and account for new or changed property tax allocations for schools.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Allocation of Property Tax Revenue (Ch. 697, Stats. 1992)	Defer	Defer	Defer

LAO Recommendation: Defer

Staff Recommendation: Approve as budgeted.

VOTE:

ISSUE #7—MANDATE: Senior Citizen's Mobilehome Property Tax Deferral

This mandate requires assessors, tax collectors, and recorders to file certificates of eligibility with the State Controller's Office (SCO) that establish liens, record tax postponement information, and disseminate that information to all interested parties. The mandate also requires county officials to notify the SCO of any changes in ownership of affected mobilehomes.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Senior Citizen's Mobilehome Property Tax Deferral (Ch. 1051, Stats. 1983).	Suspend	Suspend	REPEAL

LAO Recommendation: Repeal. This mandate has been suspended for over a decade.

Staff Recommendation: Approve as budgeted. (Zero dollars in the budget - actual repeal will be subject to mandate policy bill.)

VOTE:

ISSUE #8—MANDATE: Property Tax Family Transfers

This mandate requires county assessors to provide quarterly reports to the Board of Equalization on specified property purchases and transfers made after November 6, 1986.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Property Tax Family Transfers (Ch. 48, Stats. 1987)	Suspend	Suspend	REPEAL

LAO Recommendation: Repeal. This mandate has been suspended for over a decade.

Staff Recommendation: Approve as budgeted. (Zero dollars in the budget - actual repeal will be subject to mandate policy bill.)

VOTE:

9210 Local Government Financing

The Local Government Finance item proposes \$260 million in funding for local agencies. The state provides other assistance to local governments, primarily counties, through other direct programs budgeted in other items in the budget. Health and Human Services has numerous programs where the state and counties jointly provide funding for services. State funding is included in Public Safety for such issues as local crime labs and suppression of high intensity drug trafficking areas.

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LOCAL GOVERNMENT FINANCING BUDGET (Dollars in thousands)

	2002-03	2003-04	CHANGE		2004-05	CHANGE	
Reimbursement for Booking Fees	\$38,220	\$38,220	\$0	0.0%	\$0	-\$38,220	n/a
Property Tax Administration Grant Program	\$87,661	\$60,624	-\$27,037	-30.8%	\$60,000	-\$624	-1.0%
Citizens' Option for Public Safety (COPS)	\$232,600	\$199,725	-\$32,875	-14.1%	\$200,000	\$275	0.1%
Special Supplemental Subventions	\$1,400	\$0	-\$1,400	-100.0%	\$0	\$0	n/a
State-Mandated Local Programs	\$3	\$3	\$0	0.0%	\$5	\$2	40.0%
Totals	\$359,884	\$298,572	-\$286,490	-17.0%	\$260,005	-\$16,392	-14.8%

ISSUE #1: Reimbursement for Booking Fees.

The Governor's Budget proposes to eliminate booking fee subventions to cities in 2004-05, along with counties' authority to charge booking fees to cities. Current law continuously appropriates \$38.2 million annually for these subventions. The Administration seeks passage of AB 1749 (Assembly Committee on Budget) to repeal the counties authority to charge and the continuous appropriation.

LAO Issue.

Faced with a \$3.6 billion shortfall in the 1990-91 state budget, the Legislature and Governor enacted measures that significantly reduced state support for county and joint state-county programs. To mitigate a portion of the impact of these budget cuts, the Legislature enacted Chapter 466, Statutes of 1990 (SB 2556, Maddy), authorizing counties to raise revenues locally from three sources:

- Booking fees—charges imposed on cities, special districts, school districts, colleges, and universities to recover the costs associated with booking persons into the county jail.
- Property tax administration fee—charges imposed on cities and other noneducational local government agencies to offset their share of property tax administration costs.
- County taxes—authority to impose utility user and business license tax in their unincorporated areas. (In 1996, Proposition 218 made this county taxing authority subject to approval by local voters.)

Legislative materials regarding Chapter 446 suggest the Legislature intended booking fees to serve purposes beyond simple county fiscal relief. Specifically, booking fees would provide a disincentive to local agencies booking low-level offenders into county jail. This, in turn, would reduce the pressure on severely overcrowded county detention facilities and preserve county jail space for more serious offenders. Booking fees also would give cities an incentive to develop alternatives for nonviolent, less serious offenders.

Currently, most counties impose booking fees. The fee rate is determined locally, based on a county's annual costs for jail booking services and the number of bookings. In most cases, the fee is in the range of \$100 to \$200 per arrestee. The total amount of fees imposed statewide is unknown, but may be in the range of \$40 million annually.

Seeking to offset local government costs associated with booking fees, but not alter the fiscal disincentives local agencies face regarding booking arrestees into county jails, the Legislature enacted a booking fee relief program with a fixed allocation formula. Under Chapter 79, Statutes of 1999 (AB 1662, Leonard)—as amended by Chapter 1075, Statutes of 2000 (SB 225, Rainey), and Chapter 1076, Statutes of 2000 (AB 2219, Battin)—the state provides a \$38.2 million continuous appropriation to annually reimburse local agencies for booking fees paid in 1997. That is, every year the state reimburses local agencies for booking fees paid in 1997; the reimbursement amount does not vary to reflect changes in the booking fee rate or the number of people booked into county jail.

LAO Recommendation.

County authority to impose booking fees gives local agencies incentives to use county booking and detention services wisely and efficiently. Eliminating this incentive likely would result in significant increases to county costs, without any identifiable gain to public safety. Accordingly, we recommend the Legislature maintain county authority to impose booking fees.

In terms of cities, special districts, and other local agencies, we think it is appropriate that they pay for the jail booking-related costs their activities impose on counties. Such a payment requirement is analogous to many other financial arrangements among local

governments, including the sharing of costs for property tax administration. In addition, we note that the \$38.2 million booking fee relief program, as currently structured, allocates funding in a manner devoid of any policy rationale. We note, for example, that cities in Orange County continue to be reimbursed for their 1997 booking fee costs despite their county's decision several years ago to repeal its booking fee.

Staff Comment. Legislation seeking to preserve the booking fee program and update its provisions has recently been introduced. Senate Bill 1808 (Committee on Local Government) would accomplish the following:

- Shift the booking fee reimbursement base year from 1997-98 to 2002-03. This would effectively recalibrate the basis for reimbursement to reflect the 2002-03 booking fees.
- Sunset the booking fee reimbursement program on January 1, 2007.

The Local Government Committee notes that based on the controversial nature of the booking fee budget proposals and the historical lack of legislative debate on the topic, the Committee on Local Government seeks to facilitate a public discussion of the issues.

Staff Recommendation. Adopt the LAO proposal to eliminate booking fee subventions and preserve the authority for counties to charge booking fees.

ISSUE #2: Eliminate Citizens' Option for Public Safety (COPS) Grant Program

Chapter 134, Statutes of 1996 (AB 3229, Brulte), established the Citizens' Option for Public Safety (COPS) which provided \$100 million from the General Fund to local public safety entities including police (75 percent) and sheriff departments (12.5 percent) and district attorneys (12.5 percent). Chapter 289, Statutes of 1997 (AB 1584, Prenter) extended the program through the 1999-2000 fiscal year. Chapter 353, Statutes of 2000 (AB 1913 Cardenas) expanded the program to include support for juvenile justice grants. The 2001-02 and 2002-03 Budget Acts appropriated \$232.6 million for these programs in each year. The current year and budget year (proposed) appropriations are approximately \$200 million.

LAO Option. As part of the LAO's "Additional Options" list for General Fund expenditure reductions, the LAO notes that the COPS program provides grants to local law enforcement mostly for personnel and equipment. Given that COPS funding represents less than 1 percent of local law enforcement expenditures, its impact on public safety, if any, is likely to be relatively small. Anticipated savings from this proposal is \$100 million General Fund.

Staff Recommendation. Staff recommends the Subcommittee not adopt this LAO option at this time and keep the issue open. The LAO should provide further fiscal detail for this option and information related to the economic and social impacts.

ISSUE #3: Suspend the Juvenile Justice Grants Program for One Year Pending Evaluation Results

LAO Option. As part of the LAO's "Additional Options" list for General Fund expenditure reductions, the LAO notes that the Juvenile Justice grants provide funds to address service gaps in county juvenile justice systems. This option would suspend funding for one year pending evaluations currently underway. Suspension would not stop the programs because grant recipients receive funding one year in advance of projected expenditures. Anticipated savings from this proposal is \$100 million General Fund.

Staff Recommendation. Staff recommends the Subcommittee not adopt this LAO option at this time and keep the issue open. The LAO should provide further fiscal detail for this option and information related to the economic and social impacts.

ISSUE #4. The Administration's Property Tax Shift

Administration Proposal. The Administration proposes to redirect to K-14 districts \$1.3 billion of property taxes that otherwise would be allocated to cities, counties, special districts, and redevelopment agencies. This shift, if enacted, would bring K-14's share of the property tax to an overall statewide average of 56 percent and would decrease state General Fund education spending by \$1.3 billion. Similar to the ERAF shifts in the 1990s, this redirection of property taxes is expected to provide ongoing, growing state fiscal relief.

The table below summarizes the distribution of property tax losses to each group of local agencies under the Administration's plan.

LOCAL GOVERNMENT	AMOUNT (Dollars in millions)
Counties	\$909
Cities	\$188
Redevelopment Agencies	\$135
Special Districts	\$105
TOTAL	\$1,336

LAO Issue.

Similar to the 1990s, the budget proposes to shift \$1.3 billion of property taxes from local governments to K-14 districts and reduce state education spending by an equal amount. This proposal raises questions concerning the Legislature's role regarding the property tax. In our view, the Legislature should use its authority over this tax for the overall betterment of local government, not as a state rainy day fund. Accordingly, we recommend the Legislature reject this proposal.

Given the state's fiscal difficulties, we recognize that the Legislature may decide to explore elements of this proposal, despite evident shortcomings. If the Legislature reviews proposals to reduce local taxes, we recommend it consider these guidelines:

- Minimize Reductions to General Purpose Revenues.
- Leave Past Formulas in the Past.
- Give Local Control.
- Be Mindful of Effect on Land Use Incentives.
- Consider Impact of Revenue Reductions.

Consistent with these guidelines, we outline an alternative budget reduction. While this alternative also represents an undesirable intrusion into local finance, it would have fewer negative effects. Our alternative includes a: \$216 million reduction in local subventions, \$400 million locally determined special district property tax shift, \$320 million redevelopment property tax shift, and \$400 million reduction in city and county sales taxes

LAO Conclusion.

By shifting to K-14 districts \$1.3 billion of property taxes currently allocated to city, county, special districts, and redevelopment agencies, the administration's proposal places significant burdens on local agencies as a means of resolving the state's budget difficulties. We think it is inappropriate for the state to reallocate local taxes for the sole purpose of reducing state spending obligations. We also find that the shift would impose considerable fiscal disruptions to local governments and does not, in any real sense, represent a budget "solution." Accordingly, we recommend that the Legislature reject the administration's proposal.

If the state determines that, given its fiscal difficulties, local agency funding must play a role in resolving the state's budget crisis, we recommend the Legislature avoid relying upon the dated property tax shift formulas from the 1990s. Rather, we recommend the Legislature develop a new approach, consistent with the guidelines outlined in this analysis.

In our view, the alternative local government budget reduction outlined above—while still imposing undesirable fiscal effects on local governments—offers significant advantages over the administration's approach. Specifically, our alternative focuses a larger percentage of the property tax losses on those agencies that can offset revenue reductions through user fees or other revenues, if the community so desires. Our alternative also minimizes the loss of general-purpose revenues to cities and counties—and modestly improves the fiscal incentives local agencies face regarding land development and redevelopment.

Staff Comment. As has been described in the recent media stories, the Administration and representatives of local governments are considering alternatives to the Governor's Budget proposal. Staff understands that this information will be released publicly by the May Revision.

Staff Recommendation. **Hold open** for reconsideration in the May Revision. At that time the scope of the General Fund shortfall will be updated and a revised property tax shift proposal may be made.

ISSUE #5—MANDATE: Mandate Reimbursement Process

This mandate provides reimbursement for costs incurred in preparing and presenting test claims, including attorney services. Reimbursement is allowed only if the claim is successful.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Mandate Reimbursement Process (Chapter 486, Stats. 1975).	Defer	Defer	Defer

LAO Recommendation: Defer.

Staff Recommendation: Approve as budgeted.

VOTE:

ISSUE #6—MANDATE: Filipino Employee Surveys

This mandate requires localities to report on their number of Filipino employees.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Filipino Employee Surveys (Chapter 845, Stats. 1978)	Suspend	Suspend	REPEAL

LAO Recommendation: Repeal. This mandate has been suspended for over a decade.

Staff Recommendation: Approve as budgeted. (Zero dollars in the budget - actual repeal will be subject to mandate policy bill.)

VOTE:

ISSUE #7—MANDATE: Involuntary Lien Notices

This mandate requires that the county recorder notify, under certain circumstances, the subject of an involuntary lien on their property.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Involuntary Lien Notices (Chapter 1281, Statutes of 1980)	Suspend	Suspend	REPEAL

LAO Recommendation: Repeal. This mandate has been suspended for over a decade.

Staff Recommendation: Approve as budgeted. (Zero dollars in the budget - actual repeal will be subject to mandate policy bill.)

VOTE:

ISSUE #8—MANDATE: Photographic Record of Evidence

This mandate requires that locals establish alternate procedures for handling or storing dangerous or bulky court exhibits. Most often, this means a photographic record of evidence.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Photographic Record of Evidence (Chapter 875, Stats. of 1985)	-	Suspend	Defer

LAO Recommendation: The LAO recommends the Legislature request the Commission on State Mandates review its Statement of Decision regarding the Photographic Record of Evidence mandate and make changes necessary to ensure that the decision is consistent with the City of San Jose vs. State of California Case and Government Code Section 17556(e).

Furthermore, the LAO recommends the following budget bill language be adopted in order to implement that proposal.

The commission shall review its Statement of Decision regarding the Photographic Record of Evidence test claim and make any modifications necessary to this decision to clarify whether the subject legislation imposed a mandate consistent with the Court of Appeal's ruling in *City of San Jose versus State of California* and Government Code Section 17556(e).

Staff Recommendation: Defer and adopt the LAO recommendation.

VOTE:

ISSUE #9—MANDATE: Lis Pendens

This mandate requires certain notices be made in the county office of the recorder where a property in question is situated.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Lis Pendens (Chapter 889, Stats. 1991)	Suspend	Suspend	REPEAL

LAO Recommendation: Repeal. This mandate has been suspended for over a decade.

Staff Recommendation: Approve as budgeted. (Zero dollars in the budget - actual repeal will be subject to mandate policy bill.)

VOTE:

ISSUE #10—MANDATE: Proration of Fines and Court Audits

This mandate requires localities to assist the state in maintaining a uniform accounting system related to penalties assessed by the courts.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Proration of Fines and Court Audits (Ch. 980, Stats. 1984)	Suspend	Suspend	REPEAL

LAO Recommendation: Repeal. This mandate has been suspended for over a decade.

Staff Recommendation: Approve as budgeted. (Zero dollars in the budget - actual repeal will be subject to mandate policy bill.)

VOTE:

ISSUE #11—MANDATE: Domestic Violence Information

This mandate requires a certain periodicity of domestic violence response training for law enforcement officers.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Domestic Violence Information (Ch. 1609, Stats. 1984)	Suspend	Suspend	REPEAL

LAO Recommendation: Repeal. This mandate has been suspended for over a decade.

Staff Recommendations:

- (1) Request the LAO and Administration report on measures taken by local communities to fulfill the requirements of this mandate during the previous periods of suspension.
- (2) Approve as budgeted. (Zero dollars in the budget - actual repeal will be subject to mandate policy bill.)

VOTE:

ISSUE #12—MANDATE: Open Meetings Act

This mandate requires local agencies and legislative bodies to post a single agenda containing a brief description of items to be heard, and specifying the time and location of the meeting.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Open Meetings Act (Chapter 641, Stats. of 1986)	Defer	Defer	Defer

LAO Recommendation: Defer.

Staff Recommendation: Approve as budgeted.

VOTE:

ISSUE #13—MANDATE: Cardio-pulmonary Resuscitation (CPR) Pocket Masks

This mandate requires CPR and first aid training for certain law enforcement officers and that those officers be provided CPR pocket masks.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
CPR Pocket Masks (Ch. 1334, Stats. 1987)	Suspend	Suspend	REPEAL

LAO Recommendation: Repeal. This mandate has been suspended for over a decade.

Staff Recommendation: Approve as budgeted. (Zero dollars in the budget - actual repeal will be subject to mandate policy bill.)

VOTE:

ISSUE #14—MANDATE: Rape Victim Counseling Center Notices

This mandate requires local law enforcement agencies to reprint and provide to rape victims information cards, obtain consent to notify local rape counseling center, notify the center, and verify, with consent, that the counseling center has been notified.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Rape Victim Counseling Center Notices (Chapter 999, Stats. 1991)	Defer	Defer	Defer

LAO Recommendation: Defer

Staff Recommendation: Approve as budgeted.

VOTE:

ISSUE #15—MANDATE: Health Benefits for Survivors of Peace Officers and Firefighters

This is a new mandate that has not yet been funded. This benefit was first provided in 2002 and would probably be considered a vested right that could not be eliminated.

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Health Benefits for Survivors of Peace Officers and	Suspend	Suspend	Defer

Firefighters (Chapter 1120, Stats. 1996)			
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LAO Recommendation: The LAO recommends the Legislature request the commission to review its Statement of Decision to consider whether the administrative costs related to collective bargaining for survivor health benefits constitute a state-reimbursable mandate. The LAO also recommends the enactment legislation to repeal the requirement to provide health benefits for survivors of local public safety personnel because providing this benefit is more appropriately determined through the local collective bargaining process.

The following budget bill language must be adopted in order to implement the review proposal:

The commission shall review its Statement of Decision for Chapter 1120, Statutes of 1996, and Chapter 193, Statutes of 1997—Health Benefits for Survivors of Peace Officers and Firefighters—and make any modifications necessary to clarify whether collective bargaining duties constitute a state-reimbursable mandate or whether these duties simply reflect broad-based collective bargaining duties of employers in general.

Staff Recommendations:

1. Approve as budgeted.
2. Adopt the LAO's proposed budget bill language.

VOTE:

ISSUE #16—MANDATE: Brown Act Reform

This mandate requires agenda postings by local advisory bodies and the disclosure of matters discussed in executive sessions

MANDATE	2002-03 Action	2003-04 Action	2004-05 Proposed
Brown Act Reform (Chapters 1136 and 1137, Stats. of 1993)	Defer	Defer	Defer

LAO Recommendation: The LAO recommends the Legislature change certain requirements of the Brown Act imposed in 1993 (requiring agenda postings by local advisory bodies and disclosure of matters discussed in executive sessions) into advisory guidelines, because detailed rules governing advisory bodies do not necessitate a statewide mandate. Alternatively, if the Legislature wishes to maintain these requirements, they recommend that the Legislature direct the commission to reconsider its mandate determination in light of a recent California Supreme Court decision.

Staff Recommendation: Budget zero dollars for this mandate. (The actual repeal will be subject to a mandate policy bill.)

ISSUE #17—Finance Letter: Santa Barbara County Formation Commission

The Administration requests a \$400,000 General Fund loan to Santa Barbara County to fund its required duties associated with the proposed formation of a new county (Mission County). A petition to initiate the formation of Mission County has garnered the necessary signatures, and once this occurs, the Governor is statutorily required to appoint a five-member County Formation Review Commission to study the proposal. Santa Barbara has identified a \$400,000 need; however, statute authorizes a maximum loan amount of \$100,000.

Trailer bill. The Administration intends to submit trailer bill language to abolish the current revolving fund, increase the maximum loan from \$100,000 to \$400,000, and allow the State Controller to reduce the Santa Barbara County's Homeowners Property Tax subvention if the loan is not paid. Repayment of the loan will be due one year from when the issue of county formation is voted on by the people of Santa Barbara County.

Budget bill. Budget bill language will also be introduced to specify the use of funds and terms of repayment. That budget bill language is as follows:

*9210-102-0001—For local assistance, Local Government
Financing.....\$400,000*

Provisions:

- 1. For allocation by the State Controller to the Santa Barbara County Formation Commission pursuant to Chapter 3 (commencing with Section 23331) of Division 1 of Title 3 of the Government Code.*
- 2. The amount appropriated in this item is a loan and shall be repaid with interest within one year from when the issue of county formation is voted on by the people.*

Staff Comment. Staff has identified no concerns with this request.

Staff Recommendation. Adopt the Finance Letter.

9840 AUGMENTATION FOR CONTINGENCIES AND EMERGENCIES

The Budget Act annually provides appropriations for unforeseen contingencies or emergencies for which no appropriation or an insufficient appropriation has been made. Amounts, as required, are allocated to the various agencies by the Department of Finance based upon the determination of need. Because the amounts provided in the Budget Act are nominal amounts and typically cannot meet total deficiency funding needs, the Department of Finance annually sponsors a deficiency bill to provide additional funding.

The three 9840 items are used to provide deficiency funding when that funding is needed before the passage of the omnibus deficiency bill (usually in April). In the past, these 9840 items have been budgeted at the low level of \$1 - \$2 million, and have used on a first-come, first-served basis.

LAO Issue. Pursuant to their overall reform approach to the state's Control Section 27 deficiency process (see Control Section 27 issue that follows) the LAO recommends this item be utilized when a deficiency appropriation is needed and the Legislature is out of session (typically for a total of three months out of the year). With more funding in this item, the Administration can address unanticipated needs with funds previously appropriated by the Legislature. To ensure that use of the 9840 is consistent with Legislative intent, restrictions will be added. For example, there would be a prohibition using this item to pay for prior year costs or fund new programs. The normal notification process would of course be included.

LAO Recommendation. The LAO has recommended supplemental appropriations as part of the larger deficiency reform process. This proposal seeks to augment the 9840 items to \$25 million, a figure based on an average of past amounts that would have been subject to 9840 in the Legislature's absence. This mechanism is meant to provide new administrative flexibility when the Legislature is out of session (an average of three months per year).

Staff Recommendation. **Hold the 9840 item open**, consistent with the Control Section 27.00 reform proposal. The Administration and LAO are directed to continue to work towards reforming the deficiency process.

CONTROL SECTION 27

The Control Section 27 deficiency process allows the Department of Finance to authorize departments to spend at a rate that will result in a funding deficiency. The actual funding is provided when the omnibus deficiency bill is passed (usually in April or May). The omnibus deficiency bill will contain an augmentation to the amounts included in the 9840 budget item (described earlier).

On February 2, the Joint Legislation Budget Committee took an action of deleting Control Section 27 from the budget bill and directed the Administration and the LAO to develop an alternative to the current process. The LAO provided a reform proposal in their *Perspectives and Issues* and the Administration, LAO, and staff have met to discuss that reform proposal.

LAO ISSUE. The LAO has identified three main concerns with the current deficiency process.

- The 30-day review period is sometimes insufficient to allow a thorough review of the Administration's proposal, especially when compared with the time period the Legislature is allowed to explore the proposed budget.
- Objections raised by the Legislature are unenforceable and can be ignored. The Administration, on rare occasions, has dismissed the Legislature's objections and proceeded with the deficiency correction.
- Control Section 27 has been utilized in situations when the deficiency was not, in fact, unanticipated. The premise that deficiencies be related to both *critical* and *unanticipated* expenses is fundamental to its existence. In some cases the deficiency is spurred by a regulatory change that was known at the time of the budget. Also, underestimation of expenditures with the expectation of deficiency approval is a significant problem, notably by the Department of Corrections. And on some occasions, these funds are used to establish new programs that have not been reviewed by the Legislature.

Additionally, the Control Section 27(b) which was first included in the 2003 Budget Act has raised several concerns. While 27(b) was approved by the Legislature for the purpose of preventing deficiencies in one appropriation, the Administration has used broad discretion to exchange funds between programs. The Administration has also exceeded the five percent limit on transfers, although no such waiver process exists.

Perhaps the most egregious recent misuse was the Administration's citation of a "fiscal emergency" in order to appropriate billions of dollars to the Local Government Financing Item.

LAO Recommendation. The LAO recommends a two-part approach to reforming this process: deficiencies for when the Legislature is in session and deficiencies for when the Legislature is out of session.

In session—Supplemental appropriations. This "pay as you go" approach would be a natural shift because reforms in this Budget Act already requires hearings for deficiencies after March. Supplemental appropriations would give a means to make mid-year corrections and, if necessary, make changes like those originally intended for Section 27(b). Furthermore, writing, analyzing, and passing a bill, is wholly feasible during the legislative session that meets most times during the year.

Out of session—Augmentations for Contingencies or Emergencies.

Increase the 9840 item, as described above under the 9800 item. This will provide new administrative flexibility when the Legislature is out of session. A conservative estimate for that amount is \$25 million, based historic deficiency claims that would have fallen under this process. During the Legislature's longest absence (normally October through December, unless called in for special session) deficiency requests are relatively few.

Staff Recommendation. Hold open Control Section 27. Consistent with the JLBC action on February 2, 2004, the LAO and Administration are directed to work on an alternative to the current deficiency process.